

Old Habits Die Hard?

A Case Study of Students' Summary Translations*

Sang-Bin Lee
Dongguk University, Seoul, Korea
sblee0110@gmail.com

ABSTRACT

Summary translation, a type of translation involving summarization, is a major form of professional work that is often carried out in a governmental context. In South Korea, most government agencies provide summary translations for various purposes such as internal exchange of information and public awareness-raising, so it may comprise a certain portion of a staff translator's workload. Against this background, this study aims to demonstrate how student translators perform a summary translation and to explore what implications their translation(s) may have for translator training. To this end, a case study was conducted among more than 30 undergraduate students majoring in translation who had no hands-on experience of summary translating. The subjects were asked to summary translate an English testimony into Korean according to a translation brief and to write a brief account of their translation process. The findings point to five types of problems: (1) too long or too short summaries, (2) no effective deletion of unnecessary contents, (3) obsession with clause-level details, (4) structural or cohesive disorder, and (5) no generalization.

KEYWORDS

summary translation, verbatim translation, deletion, generalization, construction

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1. Introduction

This study aims to show how undergraduate student translators do a summary translation and to explore what implications their translation(s) may have for translator training.

Summary translation is, simply put, a type of translation that involves summarization and, according to Sager's (1983) "integrality"-based classification, belongs to "selective translation," as opposed to "full translation" (i.e. translation proper). Although summary translation has much in common with full translation, it entails an (effective) integration of translation into summarization, which in turn requires cognitive capability to select and reconstruct semantic units relevant to writing purposes.

Summary translation is a major form of professional work that is often carried out in a governmental context. In South Korea, most, but not all, government agencies and organizations provide summary translations for various purposes including internal exchange of information (e.g. policy benchmarking, monitoring developments in matters of international concern) and public awareness-raising (e.g. disclosing a summary of current affairs on the internet), so it may comprise a certain portion of a staff translator's workload.

Despite its complexity and practical importance, summary translation has been rarely studied in translation studies. This research presents the findings of a case study on a group of undergraduate student translators, who were asked to perform a summary translation under specific conditions and to write a brief account of their translation process. These findings demonstrate not only the common errors the student translators may make, but also their implications for translator training.

2. Literature Review

Much of research on summarization is based, to varying degrees, on van Dijk and Kintsch's (1983) macro-structure model, the original purpose of which is not to address the question of gist formation. This theoretical model, if applied to summary writing, would posit that the summarizer interprets the hierarchical structure of the text, deletes irrelevant or less important semantic units at the local level, selects relevant information at the global level, and organizes it into generalized statements. This kind of discourse processing occurs not only in intra-lingual summarization, but also in inter-lingual summarization, and it can thus be argued that given a sequence of propositions, the summary translator:

deletes each proposition that is not an interpretation condition (e.g. presupposition) for another proposition in the sequence;
substitutes the sequence by a proposition that is entailed by each of the propositions of the sequence; and
replaces it by a proposition that is entailed by the joint set of propositions of the sequence. (van Dijk and Kintsch 1983: 190)

For demonstration, it can be said that summary translation involves three stages of macro-processes: (1) deleting irrelevant information (e.g. *John played the guitar. It was green.* → *존은 기타를 연주했다*), (2) replacing instances of a category by a category name (e.g. *John played the guitar. He also played the piano.* → *존은 악기를 연주했다*), and (3) integrating components into the superordinate whole (e.g. *John made wooden blocks. He laid foundations. He built walls and doors.* → *존은 집을 지었다*).

Following van Dijk and Kintsch's (1983) macro-structure approach and other summarization-related theories, Shreve (2006)

focuses on conceptual discussion about the defining features of summary translation. According to him, summary translation differs from “verbatim translation” (full translation) in four areas: (1) the extent of semantic reduction, (2) the extent of linguistic compression/expansion, (3) the extent of source and target text correspondence, and (4) differential weighting of semantic content. These areas of difference have much to do with some of the cognitive processes underlying translation, especially text comprehension, hierarchical discourse processing and text reconstruction. In addition, Shreve provides a broad array of perspectives on summary translation, an area which he describes as one of the least researched in translation studies, and he highlights the need for “[an] empirical study [which] should inform translation pedagogy so that practical translator training programs can better develop new courses and curricula emphasizing this form of professional practice [summary translation]” (Shreve 2006: 88).

It is important to note that traditionally there were a number of empirical attempts to explore how monolingual summaries are written in a particular environment and what leads to different summaries. Johns (1985) examined the summarizing skills of “underprepared” and “adept” university students and revealed that the underprepared students often omit main ideas and include more sentence-level reproductions than macro-propositions. Sarig (1993) analyzed the summary protocols of a Hebrew speaker who was highly proficient in English as a foreign language and concluded that the subject’s summary processes and products were similar across languages. Kamhi-Stein (1997) investigated the effects of instruction on summary strategies and concluded that the use of the instruction does not contribute greatly to improving the subjects’ ability to reconceptualize the text.

However, empirical studies like the above cannot be used as direct evidence on how the students translate in a summary form and what their summary translations look like. This study, therefore, examines how undergraduate students perform summary translations in a realistically embedded setting in an attempt to, in Shreve's (2006: 88) words, "inform translation pedagogy."

3. Method

3.1. Subjects

This study was conducted with 39 undergraduate students enrolled in a translation course at a Seoul-based university. The subjects were 15 sophomores, 13 juniors and 11 seniors, all of whom were (double-) majoring in English-Korean translation. A pre-task survey showed that all the subjects had learned summary writing at secondary school and/or as part of an academic writing course. However, as of this study, they had no hands-on experience of summary-translating in the classroom or as professional practice.

3.2. Material

This study used a rather long English testimony (2,428 words except footnotes) entitled 'China's Repatriation of North Korean Refugees,' which highlights the pressing need to defend the rights of North Koreans to seek asylum abroad and calls upon China to stop its forcible repatriation of North Koreans (See Appendix). The testimony was given on March 5, 2012 by Roberta Cohen, Chair of the Committee for Human Rights in North Korea of the Brookings Institution, to the Congressional-Executive Commission on China.¹

As of this writing, China's repatriation of North Korean refugees was a matter of considerable concern to South Korea and the international community, and both public servants and members of the public in South Korea were trying to stay informed of developments in the matter.

The testimony consists of three parts. First, the speaker gives background information on the desperate plight of North Korean refugees and on the Committee for Human Rights in North Korea. Second, she gives reasons why North Koreans in China should be considered 'refugees' and states that China failed to comply with international commitments to refugee protection and an international convention against torture and other cruel punishment. Third, she enumerates six recommendations aimed at encouraging China to fulfill its international obligations in the North Korean refugee issue. It is important to note that there are titles for the second and third sections in the source text.

3.3. Task and procedure

The subjects were instructed to summary-translate the English testimony into Korean based on the following translation brief:

As a staff translator working for a government agency responsible for North Korea issues, you are tasked with summary-translating an English testimony (the file attached), which concerns one of the most pressing problems these days. When you translate, please comply with the following instructions.

1. Your translation will be used as reference material on recent U.S. reactions to and perceptions of China's repatriation of North Korean refugees.²
2. The target readers include the agency officials and members of the general public interested in the matter.

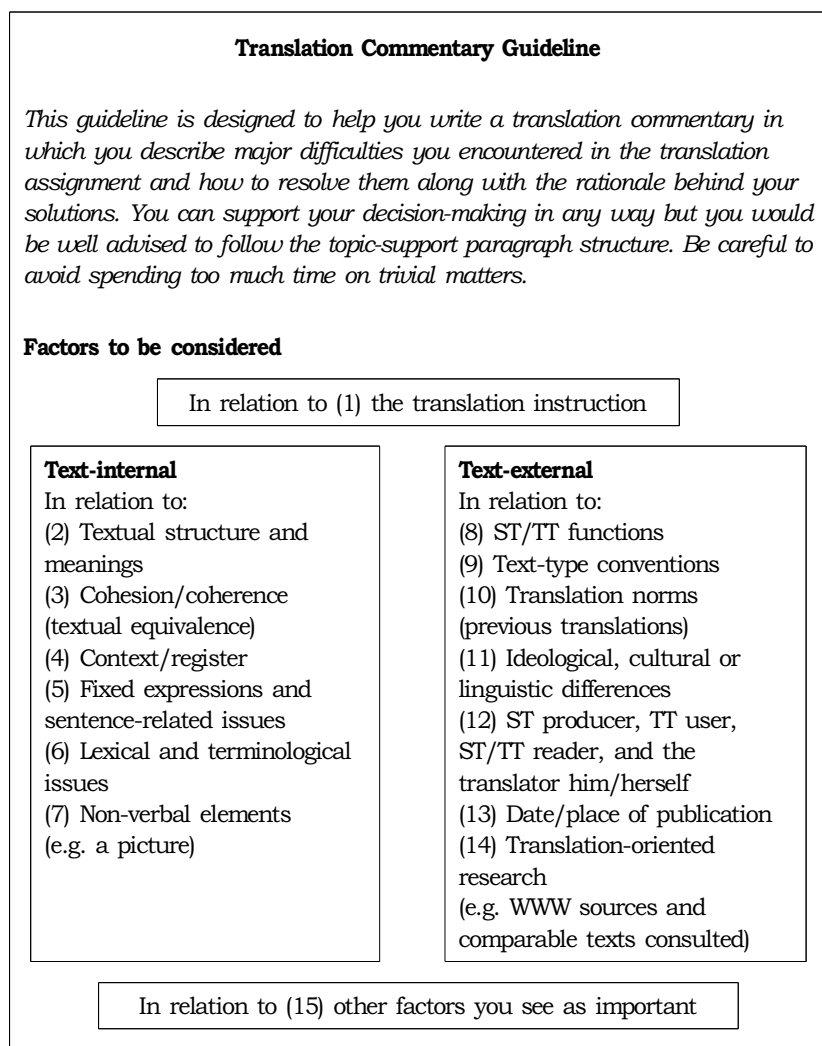
3. Your translation will be posted in five days on the agency's website.
4. A hyperlink will be provided on the web page so that anyone can have direct and easy access to the source text (http://www.brookings.edu/testimony/2012/0305_china_repatriation_cohen.aspx).

The above translation brief was simply worded and constructed based on Nord (1997), who argued that a well-designed translation brief provides information on the intended function of the target text, the sender and the recipient, the time and place of text reception, medium and motives. It is argued that based on this kind of brief, the student translators may perform a realistically embedded translation task; that is, a summary translation in the governmental context. González Davies (2004) rightly pointed out that in translator training, it is necessary to expose the student translators to a real-life situation, and Shreve (1997: 125) mentioned that “professional translation [...] can be acquired by only undergoing certain kinds of deliberately sought out communicative experiences.”

In addition to the summary translation task, the students were asked to write a translation commentary in which they retrospectively describe their own translation process under a specific guideline. This guideline is Lee's (2010) Translation Commentary Guideline (Figure 1), which was designed to examine the undergraduate student's procedural aspects of translation (in particular, what kinds of challenges the subjects encounter in the translation process and how to resolve them along with the rationale behind their solutions). The purpose and organization of the guideline was explained to the students³; furthermore, a fortnight prior to this case study, they were asked to write a translation commentary as a dry run. Then the merits and demerits of several sample commentaries were discussed

in the classroom to increase the students' cognitive ability to write a commentary.

Figure 1. Translation commentary guideline (Lee 2010: 239)



4. Results and Discussion

A total of 33 students submitted their summary translations and commentaries through email and e-class, and each student's translation was analyzed in conjunction with his or her commentary. The major results of data analysis are described in what follows.

4.1. Various lengths

In order to render the main ideas of a text in a condensed form, a summary should be controlled in terms of length. It should be mentioned, however, that there is no consensus on how long a summary should be (in other words, a summary, in principle, can be of any length). In the present study, the recommended length of a summary translation was not suggested in the brief because the student's judgment on text length may determine whether their whole summary is acceptable and because in a real work environment it is the translator who has to decide on length.⁴

The average word count of 33 summary translations is 699 and the average contraction rate is 71%.⁵ The longest and shortest summaries consist of 1,253 and 359 words, respectively (i.e. the contraction rates between 48% and 85%), and the standard deviation is 280. While it is hard to discuss the direct relationship between summary length and quality, such a big standard deviation indicates that the student's decision-making on length, all other things being equal, may substantially influence the informativity of his or her summary. Generally speaking, longer summaries (especially those with a contraction rate of less than 60%) appeared to be an assemblage of short verbatim translations, while shorter summaries (especially those with a contraction rate of over 80%) were too general

and broad to look informative.

4.2. Lack of effective deletion (selection)

One of the most salient features of the students' translations is that there were many semantic units the intended readers may see as less important or irrelevant. In particular, their summaries included clauses that may not suit the purpose and function of the summary translation concerned. Look at the following examples:

Example 1

북한 인권위원회를 대표하여 오늘과 같은 청문회를 열어 강제북송시 심한 처벌을 받게 될 30-40명의 탈북자의 처지를 주목해준 크리스토퍼 스미스(Christopher Smith) 하원의원과 셰라드 브라운(Sherrod Brown) 상원의원께 감사를 드립니다.

Example 2

탈북민의 특별한 사례는 국가적, 국제적 관심을 받게 되었다. 대한민국의 이명박 대통령은 탈북자 강제북송 중단을 공식적으로 표명했으며 박선영 국회의원은 서울에 위치한 중국 대사관 앞에서 탈북자 북송 반대 단식 농성을 벌였다.

Example 3

비정부기구인 북한인권위원회(The Committee for Human Rights in North Korea)가 중국에 있는 탈북자의 위태로운 상황과 잔인하고 비인간적인 북송 관행에 관한 3개의 심층 보고서를 발표했다. 첫째, '북한 난민의 위기 - 인권과 국제사회의 반응'(The North Korean Refugee crisis: Human Rights and International Response)에서는 대부분의 중국에 있는 북한 사람은 난민 지위를 부여 받을 수 있다는 내용이며 둘째, '사람을 팝니다 - 중국으로 탈북한 여성들의 참상'(Lives for Sale: Personal Accounts of Women Fleeing North Korea to China)에서는 유엔난민고등판무관(UN High Commissioner for Refugees)과 함께 탈북자의 지위를 결정하고 강제 북송 방지를 보장할 심사과정을 설치 할 것을 중국에 요청하였다. 셋째로, 데이빗 호크가 쓴 '감춰진 수용소 (2편)'(The Hidden Gulag)에는 북송된 후 당했던 탈북자들의 가혹한 처벌에 관한 수십 명의 끔찍한 증언이 담겨있다.

In Example 1, the speaker's thank-you remark for the two hearers seems to have little 'meaningful' content about the matter concerned (China's repatriation of North Korean refugees). In Example 2, developments in South Korea are neither new to the intended readers (at the time of this translation) nor in line with the purpose of the translation task (Check #1 in the translation brief). In Example 3, there still remains a long introductory remark on the Committee for Human Rights in North Korea (the organization to which the speaker belongs) and on the three reports it published.

In contrast, several students succeeded in selecting relevant information. All of them were found to have made 'relevance' judgments, albeit to varying degrees. A third-year student, for example, said in her commentary:

I deliberately deleted the entire paragraph [the paragraph corresponding to Example 2 above] because it is not important given the guideline [translation brief]. [...] Putting the whole of my summary into perspective, I decided to translate the paragraph [the paragraph corresponding to Example 3] in a simpler way: 'We published three reports on North Korea in 2006, 2007 and this past April' [sic].

Another third-year student said:

I decided to select content that is new to the Korean readers. Content about President Lee and Rep. Park is almost useless.

Based on these commentaries, it is suggested that the student translators in general lack understanding of the so-called "targeted summary translation" (i.e. a summary translation written in response to customer requirements)⁶, and that their response to request for information (RFI) - search for information according to the translation

brief - may determine whether their summary translation is successful or not.

4.3. Obsession with clause-level details (word-level equivalence)

Another notable feature of the students' translations is that the students were obsessed with clause-level details and translated them word-for-word. Look at the following examples:

Example 4

중국은 1988년 비준한 고문방지협약(Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment)에 구속되므로, UN 자문기구인 고문방지위원회(Committee against torture)은 탈북자가 북으로 송환될 경우에 겪을 고문을 포함한 위험을 조사하는 과정을 투명하게 제시하라고 중국에 요청해 왔다. 또 다른 UN 자문기구인 아동권리위원회(Committee on the Rights of the Child) “아동에게 돌이킬 수 없는 해를 끼칠 위험이 있다고 믿어지는 실제적 근거가 있는 국가”로는 어떠한 무연고 탈북아동도 돌려보내지 않도록 보장할 것을 중국에 요청해 왔다. 중국은 심각하게 인권을 침해하는 범죄인 탈북난민 강제송환에 공모해서는 안 된다. 유엔 사무총장과 북한 인권에 대한 유엔 특별 회의보고자(The reports of the United Nations Secretary-General and of the Special Rapporteur on human rights in North Korea)와 100 개 주 이상이 채택한 국제 연합 총회 결의안(United Nations resolutions of the General Assembly)에서는 북한정부를 강하게 비판하고 있으며, 북한의 주변국가에 탈북난민 강제송환을 중지할 것을 요청하고 있다.

Example 5

셋째, 단연코 중국이 탈북자들을 강제 송환할 수 없는 가장 명확한 이유는 그들이 UNHCR에서 제정한 ‘현지난민’에 정확하게 부합하는 사람들이기 때문입니다. UNHCR의 정의에 따르면 현지난민은 적어도 그들이 자국을 떠날 때는 망명자가 아니었더라도 ‘후일에’ 그들이 돌아올 학대에 대한 타당한 두려움을 앓고 있기 때문에 망명자로 분류될 수 있는 사람들을 일컫습니다. (All emphases are added.)

In Example 4, the summary translation became unnecessarily long partly because the pre-modified parts (underlined) remain intact; in Example 5, the translation sounds verbatim due to the heavy use of adverbs, especially intensifiers (underlined). The first student (Example 4 writer) said in his commentary that he spent much time in “researching the proper names [the names of committees, conventions, resolutions, etc.] because such ‘technical’ information should be provided for the benefit of the ordinary readers.” The second student (Example 5 writer) mentioned in passing that “the appropriate use of adverbs contributes to increasing readability.” These two students attempted to create a good translation with the prospective readers in mind, but their translations in general appear verbatim.

4.4. Structural or cohesive disorder

As mentioned before, the English source text consists of three sections: (1) background information on the plight of North Korean refugees, (2) reasons why North Koreans in China should be considered refugees, and (3) recommendations for the U.S. Among these three sections, Section 2 can be further divided into two: (2.1) three ‘topic-support’ paragraphs describing why North Koreans in China should be treated as refugees and (2.2) a thinly veiled criticism of China’s failure to comply with international treaties on refugee protection. Subsection 2.2 serves as a link and entry point to Section 3 in which the speaker recommends that the U.S. encourage China to follow the international commitment to refugee protection. Section 3 is also characterized by topic-support paragraphs.

Despite this clear hierarchical structure, however, many students translated the source text in a linear way. One of the most common

problems is that almost every paragraph was summed up with little regard to its relative importance and, in Shreve's (2006: 91) words, "differential weighting of semantic content." As a result, the translations look like 'dot-type' patterns of text devoid of conjunctions or link phrases.⁷ In addition, some translations do not include any part of Subsection 2.2 seemingly because it is irrelevant to the title of Section 2, "Reasons North Koreans in China should be considered refugees."⁸

A striking example is that five students followed the traditional way of writing official documents in South Korea by using formal cues such as headings, bullet-point lists, numbered lists and/or indented lists, as shown in Examples 6 and 7 below.

Example 6

중국의 탈북난민 강제송환에 대한 증언 요약(국문)

본 요약본은 브루킹스연구소 선임연구원인 로버타 코헨이 미 의회 산하 의회 행정부 중국위원회에서 탈북자 강제송환에 대해 증언(2012. 3. 5)한 내용임.

□ 중점 내용

- 중국은 탈북난민 강제송환을 중단해야하며, 탈북자들의 인권을 존중해야함. 북한으로 강제송환된 인원들은 무차별한 폭력, 고문, 강제 노동, 성폭력 등에 노출되며 심한 경우 사형에 처해질 수 있음. [...]

□ 중국의 입장

- 현재 중국은 탈북자들이 경제적인 이유로 불법 채류하고 있다고 판단하고 있음. 따라서 탈북자를 난민으로 분류하지 않고, 강제송환의 대상으로 정당화하는 입장임. [...]

중국의 탈북자 강제 송환 문제

1. 인사의 말

- 북한의 인권위원회를 대신해서 탈북자 관련 긴급 현안 제시
 - 탈북자들이 자국을 탈출해서 해외로 망명할 수 있도록 탈북자 인권을 긴급하게 보호할 필요가 있다고 논의
- 크리스토퍼 스티스 하원의원과 웨로드 브라운 상원의원에 대한 감사

* 로버타 코헨(review)

- 브루킹스 연구소 연구원. 인권, 난민, 북한 문제 전문가.

2. 탈북자 문제의 현황 및 연구 동향

- 한국 및 국제 사회의 관심

The students said that during their pre-translation internet search, they found comparable texts on a government website and copied textual structure and layout to “follow the text-type norms (or conventions).” In their translations, the macro-ideas start with, for example, “□”, sub-macro ideas “•,” and the micro-ideas “-.” These formal cues, in general, seem to contribute to strengthening cohesive links between paragraphs.

4.5. No generalization

A good summary involves the reduction and organization of micro-structures into a macro-structure, as suggested in van Dijk and Kintsch (1983). The source text used for this study contains nearly 2,500 words (so long that it requires generalization for desirable summarization) and yet it was revealed that the majority of the student translators chose a certain stretch of the text, mostly the first few sentences of each paragraph, and translated them verbatim.

In addition, many students did not use their own formulations for

summarization. Although the process of generalization and construction inevitably requires the use of the summarizer's own words, many students seemed reluctant to use their own words for reasons such as the following:

I'm not sure whether I can render the text in my own words because this is not an ordinary [monolingual] summary but a type of translation.

This is a translation task so I tried to stick to source-text words and expressions.

Is this a summary or a translation? I thought I was translating the main ideas of the text. After selecting main ideas, I had only to translate them faithfully.

In summary writing, I sometimes had to fuse different ideas together.

Is it possible here? (All emphases are added.)

It appears that there were differences in the stances the students took vis à vis the task at hand. Some considered it to be much closer to translation proper than summarization, while others regarded it as a subtype of summary writing. At any rate, it seems problematic that many students tried only to shorten their text length without considering the applicability of semantic integration.

5. Conclusion

From the findings of this study, the following results can be elicited:

Summary translation in the undergraduate classroom should be taught in a way that assists the students in:

(1) deciding on the appropriate length of summary according to the

- translation brief;
- (2) making good relevance judgments (deleting irrelevant and redundant semantic units);
 - (3) organizing their translation in a cohesive way; and
 - (4) generalizing propositions in an effective form.

It may be argued that all the translational problems revealed in this study came from, in Gile's (2004: 5) words, the student's failure to "unlearn their old reflexes." Although the subjects had hands-on experience of summarizing in an academic setting, they failed to apply the summary skills to a translation task and followed years of their translation practice: verbatim translation. 'Old habits die hard?' may be a reasonable question to ask about the undergraduate students' summary translation.

This study so far looked into summary translations by 33 undergraduate students and revealed some of the discernible features of their summary translations. Although the number of subjects was relatively small and their final products were analyzed without considering their likely monolingual summaries, the findings indicate that their summary translations have various problems from the perspective of discourse processing and construction. Summary translation may be an area that requires separate training and education.

NOTES

1. The Congressional-Executive Commission on China was created by the US Congress in October 2000 with the legislative mandate to monitor human rights and the development of the rule of law in China, and to submit an annual report to the President and the Congress. The Commission consists of nine Senators, nine Members of the House of Representatives, and five senior Administration officials appointed by the President. (Visit <http://www.cecc.gov/>).

2. This corresponds to a 'request for information' (RFI), whose primary pragmatic function is to "initiate a search for specific intelligence information within a text or set of texts" (Shreve 2006: 90). As Shreve mentions, it functions partially as a translation brief. Meanwhile, it should also be considered that "the requesting agency requires translational actions that produce target texts that are structurally and semantically quite different from their source texts" (90-91). According to this translation brief, the target text should become an informative text type (Reiss 1971/2000).
3. Before this translation course, the students learned basic concepts in the translation commentary guideline, such as 'register' and 'cohesion.'
4. As demonstrated below, some students mentioned in their commentaries that the first challenge they encountered is to decide how long their summary translation should be.

This [summary translation] is much more difficult than an ordinary translation task. The first trouble that I ran into was as follows: How long should my summary be? How much leeway do I have in summary-translating? To find answers to these questions, I typed in some keywords like "speech translation," "speech summary," and "summary translation."
5. The researcher acknowledges that in any summary writing, the contraction rate can be different depending on language pair, text type, domain, and other factors. Even in full translation, contraction may occur for linguistic, pragmatic and other reasons.
6. Targeted summaries ["targeted summary translations," in government parlance] are typically written in response to customer requirements (akin to "translation briefs" or "commissions" in nongovernment contexts). For example, a targeted summary of a speech by a Chinese Communist Party official would be very different if it were written in response to a request for information about plans to float the Chinese yuan than if it were written in response to a request for information about Chinese relations with North Korea (Michael et al 2011: 2-3).
7. Some students linked paragraphs in their own words to ensure cohesion. A second-year student said,

After finishing the rough draft of my summary, I realized that there is no cohesive link whatsoever between paragraphs. The draft looked ugly, so I added conjunctions or phrases that make paragraphs look cohesive.
8. Here ideology may factor into the equation. For example, the agency concerned wants to avoid provoking China by deleting comments critical of the country. However, a comment like that was not found in the commentaries.

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China's Repatriation of North Korean Refugees

On behalf of the Committee for Human Rights in North Korea, I would like to express great appreciation to Congressman Christopher Smith and Senator Sherrod Brown for holding this hearing today to highlight the case of an estimated 30 to 40 North Koreans who fled into China and now risk being forcibly returned to North Korea where they will most assuredly be severely punished. We consider it essential to defend the fundamental rights of North Koreans to leave their country and seek asylum abroad and to call upon China to stop its forcible repatriation of North Koreans and provide them with the needed human rights and humanitarian protection to which they are entitled. The right to leave a country, to seek asylum abroad and not to be forcibly returned to conditions of danger are internationally recognized rights which North Korea and China, like all other countries, are obliged to respect.

This particular case of North Koreans has captured regional and international attention. South Korean President Lee Myung Bak has spoken out publicly against the return of the North Koreans and National Assembly woman Park Sun Young has undertaken a hunger strike in front of the Chinese Embassy in Seoul. The Parliamentary Forum for Democracy encompassing 18 countries has urged its members to raise the matter with their governments.

The case, however, is situated at the tip of the iceberg. According to the State Department's Human Rights Report (2010), there may be

thousands or tens of thousands of North Koreans hiding in China. Although China does allow large numbers of North Koreans to reside illegally in its country, they have no rights and China has forcibly returned tens of thousands over the past two decades. Most if not all have been punished in North Korea and according to the testimonies and reports received by the Committee for Human Rights, the punishment has included beatings, torture, detention, forced labor, sexual violence, and in the case of women suspected of become pregnant in China, forced abortions or infanticide.

Stringent punishment in particular has been meted out to North Koreans who have associated abroad with foreigners (i.e., missionaries, aid workers or journalists) or have sought political asylum or tried to obtain entry into South Korea. The North Koreans currently arrested and threatened with return are therefore likely to suffer severe punishment should they be repatriated. Some might even face execution; the North Korean Ministry of Public Security issued a decree in 2010 making the crime of defection a “crime of treachery against the nation.”

The Committee for Human Rights in North Korea, a Washington DC-based non-governmental organization, established in 2001, has published three in-depth reports on the precarious plight of North Koreans in China and the cruel and inhuman practice of forcibly sending them back to one of the world’s most oppressive regimes. The first, *The North Korean Refugee Crisis: Human Rights and International Response* (2006), edited by Stephan Haggard and Marcus Noland, establishes that most if not all North Koreans in China merit a prima facie claim to refugee or refugee sur place status. The second, *Lives for Sale: Personal Accounts of Women*

Fleeing North Korea to China (2010) calls upon China to set up a screening process with the UN High Commissioner for Refugees (UNHCR) to determine the status of North Koreans and ensure they are not forcibly returned. The third, to be published in April, Hidden Gulag second edition, by David Hawk, presents the harrowing testimony of scores of North Koreans severely punished after being returned to North Korea.

Reasons North Koreans in China should be considered refugees

Although China claims that North Koreans in its country are economic migrants subject to deportation, we submit that North Koreans in China should merit international refugee protection for the following reasons:

First, a definite number of those who cross the border can be expected to do so out of a well founded fear of persecution on political, social or religious grounds. It is well known that in their own country North Koreans suffer persecution if they express or even appear to hold political views unacceptable to the authorities, listen to foreign broadcasts, watch South Korean DVDs, practice their own religious beliefs, or try to leave the country. Some 200,000 are incarcerated in labor camps and other penal facilities on political grounds. Moreover, North Koreans imprisoned for having gone to China for food or employment often try, once released, to leave again. Some conclude they will always be under suspicion, surveillance and persecution in North Korea and therefore cross the border once again, this time seeking political refuge, ultimately in South Korea.

Because China has no refugee adjudication process to determine who is a refugee and the UN High Commissioner for Refugees (UNHCR) has no access to North Koreans at the border, it has not been possible to ascertain how many North Koreans are seeking asylum because of a well-founded fear of political or other persecution. But those who cross the border because of political, religious or social persecution will no doubt fit the definition of refugee under the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.[1]

Second, those who cross the border into China for reasons of economic deprivation, probably the majority, may also qualify as refugees if they have been compelled to leave North Korea because of government economic policies that could be shown to be tantamount to political persecution. These North Koreans are not part of the privileged political elite and therefore have insufficient access to food and material supplies. In times of economic hardship in particular, food is distributed by the government first to the army and Party based on political loyalty whereas many of the North Koreans crossing into China during periods of famine are from the “impure,” “wavering” or “hostile” classes, which are the poor, deprived lower classes, designated as such under North Korea’s songbun caste system.[2] Their quest for economic survival could therefore be based on political discrimination and persecution. Examining such cases in a refugee determination process might establish that certain numbers of North Koreans crossing into China for economic survival merit refugee status under the 1951 Convention.

Third, and by far the most compelling argument why North Koreans should not be forcibly returned is that most if not all fit the category

of refugees sur place. As defined by UNHCR, refugees sur place are persons who might not have been refugees when they left their country but who become refugees “at a later date” because they have a valid fear of persecution upon return. North Koreans who leave their country because of economic reasons have valid reasons for fearing persecution and punishment upon return. Their government after all deems it a criminal offense to leave the country without permission and punishes persons who are returned, or even who return voluntarily. North Koreans in China therefore could qualify as refugees sur place.

The High Commissioner for Refugees, Antonio Guterres in 2006 while on a visit to China raised the concept of refugees sur place with Chinese officials. He told them that forcibly repatriating North Koreans without any determination process and where they could be persecuted on return stands in violation of the Refugee Convention. To UNHCR since 2004, North Koreans in China without permission are deemed “persons of concern,” meriting humanitarian protection.[3] It has proposed to China a special humanitarian status for North Koreans, which would enable them to obtain temporary documentation, access to services, and protection from forced return. To date, China has failed to agree to this temporary protected status.

While China has cooperated with UNHCR in making arrangements for Vietnamese and other refugees to integrate in China or resettle elsewhere, it has refused to cooperate when it comes to North Koreans. Only in cases where North Koreans have made their way to foreign embassies or consulates or the UNHCR compound in Beijing has China felt impelled to cooperate with governments or the UNHCR in facilitating their departure to South Korea or other countries. In

the vast majority of cases, China considers itself bound to an agreement it made with North Korea in 1986 (the “Mutual Cooperation Protocol for the Work of Maintaining National Security and Social Order and the Border Areas”). This agreement obliges China and North Korea to prevent “illegal border crossings of residents.” Chinese police as a result collaborate with North Korean police in tracking down North Koreans and forcibly returning them to North Korea without any reference to their rights under refugee or human rights law or the obligations of China under the agreements it has ratified. Implementation of this agreement sounds remarkably like the efforts made by the former Soviet Union to support the German Democratic Republic’s actions to punish East Germans for trying to leave their country. It is an agreement that undermines and stands in violation of China’s obligations under the 1951 Convention Relating to the Status of Refugees (which it signed in 1982), its membership in UNHCR’s Executive Committee (EXCOM), which seeks to promote refugee protection, and the human rights agreements to which China has chosen to adhere. So too do China’s domestic laws contradict its international refugee and human rights commitments. A local law in Jilin province (1993) requires the return of North Koreans who enter the province illegally.

China is bound not only by the Refugee Convention that prohibits non-refoulement but the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which China ratified in 1988. It prohibits the return of persons to states “where there are substantial grounds for believing” that they would be “subjected to torture.” Indeed, the Committee against Torture (CAT), the expert body monitoring the convention’s implementation, has called upon China to establish a screening process to examine

whether North Koreans will face the risk of torture on return, to provide UNHCR access to all North Korean persons of concern, and to adopt legislation incorporating China's obligations under the convention, in particular with regard to deportations.

Another UN expert body, the Committee on the Rights of the Child, which monitors compliance by China and other states with the Convention on the Rights of the Child, similarly has called on China to ensure that no unaccompanied child from North Korea is returned to a country "where there are substantial grounds for believing that there is a real risk of irreparable harm to the child."

China of course has legitimate interests in wanting to control its borders. It is concerned about potential large scale outflows from North Korea and the impact of such flows on North Korea's stability. It also is said to be concerned about potential Korean nationalism in its border areas where there are historic Korean claims. But China should not become complicit in the serious human rights violations perpetrated by North Korea against its own citizens. The reports of the United Nations Secretary-General and of the Special Rapporteur on human rights in North Korea as well as the resolutions of the General Assembly, adopted by more than 100 states, have strongly criticized North Korea for its practices and called upon North Korea's "neighboring states" to cease the deportation of North Koreans because of the terrible mistreatment they are known to endure upon return.

Recommendations

To encourage China to fulfill its international obligations in this

matter, the following recommendations are offered:

First, additional hearings should be held by the United States Congress on the plight of North Koreans who cross into China. A spotlight must be kept on the issue to seek to avert China's forced repatriation of North Koreans to situations where their lives are at risk.

Second, members of Congress should lend support to the efforts of the Parliamentary Forum for Democracy, established in 2010, so that joint inter-parliamentary efforts can be mobilized in a number of countries around the world on behalf of the North Koreans in danger in China. Such joint efforts can also offer solidarity to South Korean colleagues protesting the forced return of North Koreans.

Third, the United States should encourage UNHCR to raise its profile on this issue. It further should lend its full support to UNHCR's appeals and proposals to China and mobilize other governments to do likewise in order to make sure that the non-refoulement provision of the 1951 Refugee Convention is upheld and the work of this important UN agency enhanced. China's practices at present threaten to undermine the principles of the international refugee protection regime.

Fourth, together with other concerned governments, the United States should give priority to raising the forced repatriation of North Koreans with Chinese officials but in the absence of response, should bring the issue before international refugee and human rights fora. UNHCR's Executive Committee as well as the UN Human Rights Council and General Assembly of the United Nations should all be

expected to call on China by name to carry out its obligations under refugee and human rights law and enact legislation to codify these obligations so that North Koreans will not be expelled if their lives or freedom are in danger. Specifically, China should be called upon to adopt legislation incorporating its obligations under the Refugee Convention and international human rights agreements and to bring its existing laws into line with internationally agreed upon principles. It should be expected to call a moratorium on deportations of North Koreans until its laws and practices are brought into line with international standards and can ensure that North Koreans will not be returned to conditions of danger.

Fifth, the United States should promote a multilateral approach to the problem of North Koreans leaving their country. Their exodus affects more than China. It concerns South Korea most notably, which already houses more than 23,000 North Korean 'defectors' and whose Constitution offers citizenship to North Koreans. Countries in East and Southeast Asia, East and West Europe as well as Mongolia and the United States are also affected as they too have admitted North Korean refugees and asylum seekers. Together with UNHCR, a multilateral approach should be designed that finds solutions for North Koreans based on principles of non-refoulement and human rights and humanitarian protection. International burden sharing has been introduced for other refugee populations and should be developed here.

Sixth, the United States should make known its readiness to increase the number of North Korean refugees and asylum seekers admitted to this country.[4] Other countries should be encouraged as well to step forward and take in more North Korean refugees and asylum

seekers until such time as they no longer face persecution and punishment in their country.

Thank you.

[1] Under the Convention, a person is a refugee if he or she is outside his/her country of origin because of “a well-founded fear of being persecuted” for “reasons of race, religion, nationality, membership of a particular social group or political opinion” and unable or unwilling to avail him or herself of the protection of that country. An exception is if the person has committed criminal acts (although in the case of North Korea, the term criminal would be open to discussion).

[2] See Committee for Human Rights in North Korea, *Marked for Life: Songbun, North Korea's Social Classification System*, 2012 (forthcoming).

[3] In September 2004, the High Commissioner announced before UNHCR's Executive Committee that North Koreans in China are ‘persons of concern.’ One reason why UNHCR used this term was that it had no access to the North Koreans; another was that under the Refugee Convention, persons of dual nationality could be excluded from refugee status. (However it has been pointed out that in the case of North Koreans, not all are able to avail themselves of their right to citizenship in South Korea, some may not choose to do so, and South Korea may not take in every North Korean. The United States and other countries do not consider North Koreans ineligible for refugee status because of the dual nationality provision.)

[4] See Roberta Cohen, “Admitting North Korean Refugees to the United States: Obstacles and Opportunities,” 38 *North*, September 20, 2011.

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